IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-100322 TRIAL NO. B-0905705
Plaintiff-Appellee,	:	*JUDGMENT ENTRY.*
vs.	:	
DANIEL HINTON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.[1]

Defendant-appellant, Daniel Hinton, appeals a judgment of the Hamilton County Court of Common Pleas revoking his community control and sentencing him to a term of imprisonment. We find no merit in his sole assignment of error, and we affirm the trial court's judgment.

Hinton was originally convicted of escape under R.C. 2921.34(A) and obstructing official business under R.C. 2921.31(A), both fifth-degree felonies. At the original sentencing hearing, the trial court, after noting the circumstances of the offenses and Hinton's extensive criminal history, reluctantly placed him on three years of community control with intensive supervision.

The court stated, "To be honest with you, I'm going to give you community control sanctions. You don't deserve it. And I didn't know all these bad things about you when I agreed to do that, but I will stick to my agreement." The court added that community control would be violated for the "slightest infraction," and that the court would sentence him for any violation to a total of two years in prison.

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[1] See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

One of the conditions of Hinton's community control was that he could not travel outside of Hamilton County without prior court approval. But immediately after being placed on community control, he went to Columbus, Ohio, to live with his girlfriend.

The following Monday, Hinton was supposed to report to the probation department, but he did not. Instead, he called his probation officer and told him that he would not report in person. During subsequent conversations with Hinton, the probation officer told Hinton that he had to come back to Hamilton County. Hinton refused. He subsequently stopped calling. Consequently, a warrant was issued for Hinton's arrest, and he was arrested in Columbus.

At a revocation hearing, Hinton admitted to violating the conditions of his community control. He explained that he had had a residence in Cincinnati, but that he had lost it. He had gone to Columbus to live with his girlfriend and child, but she had kicked him out of her home. Hinton's counsel argued that his violations had been minor and requested that the court send him for drug treatment. Hinton apologized for the violation and expressed love and concern for his five-month-old daughter.

The court stated that Hinton had a terrible record, and that it saw no change in his behavior. It terminated his community control, sentenced him to one year in prison for each offense, and that the two prison terms be served consecutively. The court noted that it thought that Hinton should only get credit for 85 days in prison, but gave him the 114 days he had requested.

Hinton filed a motion for reconsideration. At a hearing on that motion, Hinton asked for drug treatment and told the court that he should not have to serve two years in prison. After the trial court overruled the motion, Hinton started yelling

and cursing at the court. He shouted, "You're going to make me do two years and how are you going to give me two years? I didn't do nothing."

In his sole assignment of error, Hinton contends that the trial court erred in revoking his community control and in sending him to prison. He argues that the court should have restored him to community control and ordered drug treatment. This assignment of error is not well taken.

Once a trial court has found that a community-control violation has occurred, the decision whether to revoke community control lies within the court's discretion. A reviewing court will not disturb that decision in the absence of an abuse of discretion.[2]

In this case, Hinton admitted to violating the conditions of his community control. But he argues that he had not incurred any new criminal charges, that the violations were minor, and that he was trying to change his life.

His argument ignores the fact that, given his criminal history, the court gave him a break by putting him on community control in the first place, and the fact that the court told him that he would be violated for the "the slightest infraction." The court also told him that if he violated the terms of his community control, it would sentence him to a total of two years in prison.

Instead of changing his life, as he had claimed to be doing, Hinton immediately left Hamilton County even though he knew that a condition of his community control was that he not leave the county without permission. Under the circumstances, we cannot hold that the trial court's decision to revoke Hinton's community control was so arbitrary, unreasonable, or unconscionable as to constitute an abuse of discretion.[3]

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[2] *State v. Dockery*, 187 Ohio App.3d 798, 2010-Ohio-2365, 933 N.E.2d 1155, ¶13.
[3] See *State v. Clark*, 71 Ohio St.3d 466, 470, 1994-Ohio-43, 644 N.E.2d 331.

Further, we cannot hold that the trial court erred in imposing two consecutive one-year prison terms. When a court imposes a sentence for a community-control violation, it sentences the offender anew and must comply with the relevant sentencing statutes.[4]

The trial court complied with the applicable rules and statutes and imposed sentences within the appropriate range of sentences.[5] Therefore, the sentences were not contrary to law.[6]

The court then imposed the sentences it had previously stated that it would impose. Given Hinton's extensive criminal history and his continued failure to take responsibility for his actions, the trial court's decision to impose two consecutive one-year prison terms was not an abuse of discretion.[7] Consequently, we overrule Hinton's assignment of error and affirm the trial court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., HENDON and **DINKELACKER, JJ.**

To the Clerk:

Enter upon the Journal of the Court on December 29, 2010

per order of the Court _____.

Presiding Judge

[4] *State v. Fraley*, 105 Ohio St.3d 13, 2004-Ohio-7110, 821 N.E.2d 995, ¶17; *State v. Baccus*, 1st Dist. No. C-040028, 2005-Ohio-3704, ¶11.
[5] See R.C. 2929.11, 2929.12 and 2929.14(A)(1)(5).
[6] See *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, ¶26; *State v. Jones*, 1st Dist. No. C-090137, 2010-Ohio-4116, ¶50.
[7] *Kalish*, supra, at ¶29; *Jones*, supra, at ¶50.